



## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Customs and Border Protection**

## **DEPARTMENT OF THE TREASURY**

### **19 CFR Part 12**

**[CBP Dec. 22-23]**

**RIN 1515-AE75**

### **Extension and Amendment of Import Restrictions on Archaeological and Ethnological Materials From Mali**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension and amendment of import restrictions on certain categories of archaeological and ethnological material from the Republic of Mali (Mali) to fulfill the terms of the new agreement, titled “Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Mali.” The Designated List, which was last described in CBP Dec. 17-12, is amended in this document to reflect additional categories of archaeological material found throughout the entirety of Mali and additional categories of ethnological material associated with religious activities, ceremonies, or rites, and enforcement of import restrictions is being extended for an additional five years by this final rule.

**DATES:** Effective on [insert date of filing for public inspection at the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, ot-

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## **SUPPLEMENTARY INFORMATION:**

### **Background**

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.*, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Republic of Mali (Mali) on September 19, 1997, concerning the imposition of import restrictions on archaeological material from Mali (the 1997 Agreement).<sup>1</sup> The 1997 Agreement included among the materials covered by the restrictions, archaeological material from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali, then subject to the emergency restrictions imposed by the former U.S. Customs Service (U.S. Customs and Border Protection's (CBP) predecessor) in Treasury Decision (T.D.) 93-74 (58 FR 49428 (September 23, 1993)). These emergency import restrictions were imposed pursuant to 19 U.S.C. 2603(c) and 19 CFR 12.104g(b) and effective for a period of five years.

On September 23, 1997, the former U.S. Customs Service published T.D. 97-80 in the *Federal Register* (62 FR 49594), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological material covered by the restrictions.

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<sup>1</sup> The 1997 Agreement was entered into following the emergency imposition of import restrictions on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali. The emergency restrictions were imposed by the former U.S. Customs Service in Treasury Decision (T.D.) 93-74 and were published in the *Federal Register* (58 FR 49428) on September 23, 1993. The 1997 Agreement replaced the emergency restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which an agreement enters into force with respect to the United States. This period may be extended for additional periods of no more than five years if it is determined that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. *See* 19 CFR 12.104g(a).

Since the initial final rule was published on September 23, 1997, the import restrictions were subsequently extended and/or amended four (4) times. First, on September 20, 2002, the former U.S. Customs Service published T.D. 02-55 in the *Federal Register* (67 FR 59159) to extend the import restrictions for an additional five-year period.

Second, on September 19, 2007, CBP published CBP Decision (Dec.) 07-77 in the *Federal Register* (72 FR 53414), to extend the import restrictions for an additional five-year period and to impose import restrictions on new subcategories of objects throughout Mali from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth century.

Third, on September 19, 2012, CBP published CBP Dec. 12-14 in the *Federal Register* (77 FR 58020), to extend the import restrictions for an additional five-year period.

Fourth and lastly, on September 19, 2017, CBP published CBP Dec. 17-12 in the *Federal Register* (82 FR 43692), to extend the import restrictions for an additional five-year period and to impose import restrictions on certain categories of ethnological material, specifically, manuscripts dating between the twelfth and twentieth centuries, in paper.

On January 6, 2022, the United States Department of State proposed in the *Federal Register* (87 FR 791) to extend and amend the agreement between the United States and Mali concerning the import restrictions on certain categories of archaeological

and ethnological material from Mali. On April 27, 2022, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that: (1) the cultural heritage of Mali continues to be in jeopardy from pillage of certain archaeological and ethnological material currently covered and that the import restrictions should be extended for an additional five years; and (2) the cultural heritage of Mali is in jeopardy from pillage of additional categories of archaeological material found throughout the entirety of Mali and additional categories of ethnological material associated with religious activities, ceremonies, or rites, and that import restrictions should be imposed on such additional categories. Pursuant to the new agreement, the existing import restrictions will remain in effect for an additional five years through September 13, 2027, along with the imposition of additional import restrictions on new categories of archaeological and ethnological material mentioned above and added to the Designated List, which will also be effective for a five-year period through September 13, 2027.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions and amending the Designated List of cultural property described in CBP Dec. 17-12 with the addition of categories of archaeological material including, but not limited to, objects of ceramic, leather, metal, stone, glass, textiles, and wood, and certain additional categories of ethnological material associated with religious activities, ceremonies, or rites of traditional African or Islamic cultures or religions; architectural elements; and funerary objects; all at least 100 years old. The restrictions on the importation of archaeological material and ethnological material continue to be in effect through September 13, 2027. Importation of such materials from Mali continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting “Mali” from the list.

### **Designated List of Archaeological and Ethnological Material from Mali**

This Designated List, amended as set forth in this document, includes archaeological material that originates in Mali, ranging in date from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth-century A.D. The Designated List is amended to include additional categories of archaeological material found throughout the entirety of Mali. These categories include, but are not limited to, objects of ceramic, leather, metal, stone, glass, textiles, and wood. The Designated List also includes certain categories of ethnological material, namely, manuscripts dating between the twelfth and twentieth centuries A.D., in paper, and is amended to include new categories of ethnological material associated with religious activities, ceremonies, or rites of traditional African or Islamic cultures or religions; architectural elements; and funerary objects; all at least 100 years old.

The list set forth below is representative only. Any dimensions are approximate.

### **Archaeological Material**

Includes objects dating from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth-century A.D.

#### **I. Ceramics/Terracotta/Fired Clay**

The best-known types and sites include, but are not limited to, Djenne'-Djeno or Jenne, Bankoni, Essouk-Tadmekka, Guimbala, Banamba, Bougouni, Bura, Gao, Kidal, Talohos, and Teghaza.

##### *A. Figures/Statues*

1. Anthropomorphic figures, often incised, impressed and with added motifs, such as scarification marks and serpentine patterns on their bodies, often depicting horsemen or individuals sitting, squatting, kneeling, embracing, or in a position of repose, arms elongated the length of the body or crossed over the chest, with the head tipped backwards. Includes terracotta masks. (H: 5 to 50 cm.)

2. Zoomorphic figures, often depicting a snake motif on statuettes or on the belly of globular vases. Sometimes the serpent is coiled in an independent form. A horse motif is common but is usually mounted. Includes quadrupeds. (H: 5 to 40 cm.)

*B. Common Vessels*

1. Funerary jars, ochre in color, often stamped with chevrons. (H: 50 to 82 cm.)

2. Globular vases often stamped with chevrons and serpentine forms. (H: under 10 cm.)

3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head.

4. Ritual pottery of the Tellem culture, decorated with a characteristic plaited roulette.

a. Pots made on a convex mold built up by coiling.

b. Hemispherical pots made on three or four legs or feet resting on a stand.

5. Kitchen pottery of the Tellem culture with the paddle-and-anvil technique decorated with impressions from woven mats.

6. Vessels and containers often decorated with stamps, combs, incised linear decorations, and/or geometric forms. May have some surface treatment such as slip or a burnished finish.

7. Jars often with long, funnel-shaped neck and a flared rim. May be decorated with wide parallel incisions, grooves, or fluting. Jars often have surface treatment that is a combination of red slip with white or black paint. Typically associated with the Gao Saneye region.

8. Glazed ceramic vessels, containers, and lamps often decorated with bright colors such as red, green, turquoise, yellow, and/or black. Types have been recovered at Essouk-Tadmeka.

9. Terracotta crucibles, which may have vitrified residues in a blueish color used in craft production for melting copper.

10. Bed supports or frames that may be decorated with stamps, combs, incised linear decorations, and/or geometric forms. May have some surface treatment such as slip or a burnished finish.

11. Bottle stoppers made in terracotta. May be decorated with a zoomorphic figure such as a ram or rooster head. (H: approximately 20 cm.)

### *C. Jewelry*

Terracotta beads in different shapes such as tapered, oval, cylindrical, segmented, elongated, and others. (H: typically, between 2 cm. to 8 cm.)

## **II. Leather**

Objects of leather found in Tellem funerary caves of the Bandiagara Escarpment or other archaeological sites across Mali include, but are not limited to:

- A. Sandals often decorated and furnished with a leather ankle protection.
- B. Boots profusely painted with geometric designs.
- C. Plaited bracelets.
- D. Knife-sheaths.
- E. Loinskins.
- F. Bags.

### III. Metal

Objects of copper, bronze, iron, and gold from Mali include, but are not limited to:

#### A. *Copper and Copper Alloy (such as Bronze)*

1. Figures/Statues.
  - a. Anthropomorphic figures, including equestrian figures and kneeling figures. (Some are miniatures no taller than 5 centimeters; others range from 15 to 76 cm.)
  - b. Zoomorphic figures, such as the bull and the snake.
2. Bells (H: 10 to 12 cm.) and finger bells (H: 5 to 8 cm.).
3. Jewelry and items of personal adornment that include, but are not limited to, bracelets, pendants, finger rings, amulets, amulet holders, belts, brooches, buckles, buttons, charms, hair ornaments, hairpins, necklaces, ornaments, pectoral ornaments, rosettes, staffs, and others. Well-known motifs include bull's heads, snakes, and antelopes.

#### B. *Iron*

1. Figures/Statues.
  - a. Anthropomorphic figures. (H: 12 to 76 cm.)
  - b. Zoomorphic figures, sometimes representing a serpent or a quadruped animal. (H: 12 to 76 cm.)
2. Headrests of the Tellem culture.
3. Ring-bells or finger-bells of the Tellem culture.
4. Bracelets and armlets of the Tellem culture.
5. Hairpins, twisted and voluted, of the Tellem culture.
6. Tools and weapons that include knives, swords, hooks, harpoons, weights, axes, scrapers, trowels, and other tools.



*C. Gold*

Jewelry and items of personal adornment including, but not limited to, amulets, amulet holders, bracelets, belts, brooches, buckles, buttons, charms, hair ornaments, hairpins, necklaces, ornaments, pectoral ornaments, pendants, rings, rosettes, staffs, and others.

**IV. Stone**

Objects of stone from Mali include, but are not limited to:

- A. Beads in carnelian (faceted) and other types of stone.
- B. Quartz lip plugs.
- C. Funerary stelae (headstones) inscribed in Arabic.
- D. Chipped stone lithics from the Paleolithic and later eras including axes, knives, scrapers, arrowheads, and cores.
- E. Ground stone from the Neolithic and later eras including axes, adzes, pestles, grinders, and bracelets.
- F. Small carved statuary and figurines.
- G. Rock art that is incised, engraved, pecked, and/or that displays painted drawings on natural rock surfaces. May have inscriptions in Arabic.
- H. Megaliths, monoliths, or funerary stelae that may be carved, ground, and/or pecked into a bell shape. May have incised geometric decorations. Often in shaped sandstone or laterite. Heights vary, but typically range from 45 centimeters to 150 centimeters.

**V. Glass**

*A. Beads*

A variety of glass beads have been recovered at archaeological sites in Mali. Glass beads typically come in cylindrical, oval, segmented, elongated or stretched pearl shapes. Beads are made with single (blue, red, white, green, black) or multiple colors.

Beads may be brightly colored hues of blue, green, red, turquoise, yellow, and/or white.

Beads typically range from 5 mm. to 3 cm.

*B. Vessels*

Vessel types may be conventional shapes and include small jars, bowls, goblets, spouted vessels, candle holders, perfume jars, and lamps. Ancient examples may be engraved and/or colorless or blue, green, yellow, or orange, while those from the Islamic period may include animal, floral, and/or geometric motifs.

**VI. Textiles**

Textile objects, or fragments thereof, have been recovered in the Tellem funerary caves of the Bandiagara Escarpment and other archaeological sites across Mali and include, but are not limited to:

*A. Cotton*

1. Tunics.
2. Coifs.
3. Blankets.

*B. Vegetable Fiber* (e.g., skirts, aprons, and belts made of twisted and intricately plaited vegetable fiber)

*C. Wool* (e.g., blankets)

**VII. Wood**

Objects of wood may be found archaeologically (in funerary caves of the Tellem or Dogon peoples in the Bandiagara Escarpment, for example) and the following are representative examples of wood objects usually found:

*A. Figures/Statues*

1. Anthropomorphic figures—usually with abstract body and arms raised standing on a platform, sometimes kneeling. (H: 25 to 61 cm.)

2. Zoomorphic figures—depicting horses and other animals. (H: 25 to 61 cm.)

*B. Headrests*

*C. Household Utensils*

1. Bowls.
2. Spoons—carved and decorated.

*D. Agricultural/Hunting Implements*

1. Hoes and axes—with either a socketed or tanged shafting without iron blades.
2. Bows—with a notch and a hole at one end and a hole at the other with twisted, untanned leather straps for the “string”.

3. Arrows, quivers.

4. Knife sheaths.

*E. Musical Instruments*

1. Flutes with end blown, bi-toned.
2. Harps.
3. Drums.

**Ethnological Material**

**I. Manuscripts**

Manuscripts and portions thereof from the Mali Empire, Songhai Empire, pre-Colonial, and French Colonial periods of Mali (twelfth to early twentieth centuries A.D.), including but not limited to Qur’ans and other religious texts, letters, treatises, doctrines, essays or other such papers spanning the subjects of astronomy, law, Islam, philosophy, mathematics, governance, medicine, slavery, commerce, poetry, and literature, either as single leaves or bound as a book (or “codex”), and written in Arabic using the Kufic, Hijazi, Maghribi, Saharan, Sudani, Suqi, Nashk, or Ajami scripts written on paper.

## **II. Funerary Markers**

Includes tombstones and burial markers incised with Arabic writing and script. Shapes vary but include square or baguette-shapes. Primarily in laterite, marble, or quartz. Approximate dimensions 20 centimeters to 120 centimeters high. Approximate dates: A.D. 1100-1920.

## **III. Wooden Objects**

### *A. Ancestor Figurines*

Includes carved wooden figurines often carved in high relief with elongated forms and limbs. Forms may be abstract and stylized. Typically associated with the Bamana, Dogon, Minianka, Senufo, or Soninke. Approximate dates: A.D. 1200-1920.

### *B. Architectural Materials*

Includes locks, shutters, and panels carved from wood in civic and community buildings, found primarily in the Dogon culture area.

### *C. Ritual Vessels*

Includes wooden carved arks and containers, often known as *Aduno Koro* used for ceremonies and religious activities, primarily found in the Dogon culture area. May have carvings of humans, horses, lizards, and/or other designs.

## **IV. Masks and Headdresses**

Includes types typically made from brass/bronze, coconut shell, iron, ivory, leather, raffia, wood, plant fibers, quills, animal horns, or a combination of materials. They can be carved and adorned with decorative and symbolic designs. Beads, bells, and/or shells can be attached. They can be sculpted and decorated to represent human, animal, and composite forms (for example, a horse and its rider). Masks may be encrusted with layers of clay, kaolin, ochre, soil, and/or sediment. Masks and headdresses were typically created in three forms: (1) helmet-style; (2) facemasks; and (3) headcrests (worn on the top of the head). Masks and headdresses included are

typically associated with religious activities and/or ceremonies, including the various secret societies of the Mande (e.g., Komo, Dojos, or the brotherhood of hunters) and communities of Mali, including, the Bamana, Bobo, Bozo, Dogon, Malinké, Minianka, or Senufo. Approximate dates of A.D. 1200-1920.

## **V. Textiles**

Includes beaded and adorned garments such as diviner's bags, hunting shirts with protective amulets typically crafted out of cotton and leather. Textiles are typically associated with religious activities and/or ceremonies, including the various secret societies of the Mande (e.g., Komo, Dojos, or the brotherhood of hunters) and communities of Mali, including the Bamana, Bobo, Bozo, Dogon, Malinké, Minianka, Peuhl or Fulani, or Senufo. Approximate dates of A.D. 1200-1920.

### **Inapplicability of Notice and Delayed Effective Date**

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

### **Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### **Executive Order 12866**

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

### **Signing Authority**

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to

approve regulations related to customs revenue functions.

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

## **List of Subjects in 19 CFR Part 12**

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

### **Amendment to the CBP Regulations**

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

## **PART 12 – SPECIAL CLASSES OF MERCHANDISE**

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

\* \* \* \* \*

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

\* \* \* \* \*

2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Mali to read as follows:

**§ 12.104g      Specific items or categories designated by agreements or emergency actions.**

(a) \* \* \*

State party	Cultural property			Decision No.		
	*	*	*	*	*	*
Mali	Archaeological material from Mali from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth century, and ethnological materials dating between the twelfth and twentieth centuries			CBP Dec. 22-23		
	*	*	*	*	*	*

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Robert F. Altneu, Director  
Regulations & Disclosure Law Division,  
Regulations & Rulings, Office of Trade  
U.S. Customs and Border Protection.

Approved:

Thomas C. West, Jr.,  
Deputy Assistant Secretary of the Treasury for Tax Policy.

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